

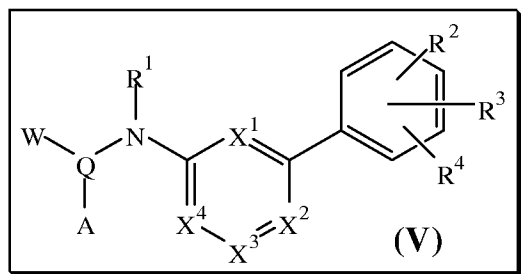
## DETAILED ACTION

### Status of the Claims / Priority

Claims 10-12 and 14-30 are pending in the current application. According to the Claim Amendments, filed February 11, 2011, claim 24 was amended and claims 1-9 and 13 were cancelled. This application is a 35 U.S.C. § 371 National Stage Filing of International Application No. PCT/AU2004/001689, filed December 3, 2004, which claims priority under 35 U.S.C. § 119(a-d) to AU 2003906680, filed December 3, 2003.

### Status of Restrictions / Election of Species

Applicant's affirmation of the following election, without traverse, in the reply filed on



April 15, 2010, is acknowledged: a) Group II - claims 10-12, 14 and 21-30, where  $X_1 = -N-$ ;  $X_2 = -N-$ ;  $X_3 = -C-$ ; and  $X_4 = -C-$ ; and b) substituted pyrimidine of formula (V) - p. 48, example 18.

The requirement was made FINAL in the Non-Final Rejection, mailed on February 2, 2010.

Claim 10 is directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(b), claims 15-20, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement as set forth in the Office action, mailed on August 31,

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2009, is hereby withdrawn. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicants are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. § 121 are no longer applicable. {See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971); and MPEP § 804.01}.

The sections of U.S.C. Title 35 that formed the basis of prior rejections formulated, as well as any references supporting said rejections, that are not included with this Office action, may be found in either the Non-Final Rejection, mailed on February 2, 2010, the Final Rejection, mailed on May 25, 2010, the Non-Final Rejection, mailed on October 12, 2010 or the Final Rejection, mailed on December 20, 2010. Furthermore, any rejections and/or objections of record not explicitly addressed herein below, are hereby withdrawn, in light of applicant's arguments and/or the Claim Amendments, filed February 11, 2011.

Thus, a fifth Office action and prosecution on the merits of claims 10-12 and 14-30 is contained within.

### **Reasons for Allowance**

Claims 10-12, 14 and 21-30 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art is silent with respect to substituted pyrimidines and tubulin inhibitors of the formula (V), as recited in claims 10 and 24, respectively.

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The limitation on the core of the substituted pyrimidines and tubulin inhibitors of the formula (V) that is not taught or fairly suggested in the prior art is R<sup>2</sup> on the periphery of the pyrimidine core. This limitation is present in the recited species of claims 11, 12, 25 and 29, respectively.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled Comments on Statement of Reasons for Allowance.

#### ***Examiner's Amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The following is a statement of examiner's amendment to the record:

Claims 15-20 have been cancelled.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Kate H. Murashige (Reg. No. 29,959) on February 14, 2011.

#### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS M. WILLIS, whose telephone number is 571-270-

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5757. The examiner can normally be reached on Monday thru Thursday from 8:00-6:00 EST. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. James O. Wilson, can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DOUGLAS M WILLIS/  
Examiner, Art Unit 1624

**/James O. Wilson/  
Supervisory Patent Examiner, AU 1624**